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## FREDERICK COUNTY PLANNING COMMISSION

### December 11, 2019

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**TITLE:** **Holter Farm - Kennel**

**FILE NUMBER:** **SP19-14 AP 19786, APFO 19787,  
FRO 19728**

**REQUEST:** **Site Development Plan Approval**

The Applicant is requesting Site Development Plan approval for a 9,100 sq. ft. kennel located on a 10.78 acre Site.

**PROJECT INFORMATION:**

ADDRESS/LOCATION:	9619 Stauffer Road, approximately 2,700 ft. west of Water Street Road
TAX MAP/PARCEL:	Tax Map 58, Parcel 259
COMP. PLAN:	Agricultural/Rural
ZONING:	A – Agricultural
PLANNING REGION:	Walkersville
WATER/SEWER:	No Planned Service

**APPLICANT/REPRESENTATIVES:**

APPLICANT:	Kelkimric Properties, LLC
OWNER:	- same -
ENGINEER:	MHG, PA
ARCHITECT:	Not Listed
ATTORNEY:	Linowes and Blocher LLP

**STAFF:** Ashley M. Moore, Principal Planner

**RECOMMENDATION:** **Conditional Approval**

**Enclosures:**

Exhibit #1 – Site Development Plan Renderings  
Exhibit #2 – Modification Requests  
Exhibit #3 – Board of Appeals Special Exception Findings and Decision (B-14-17)

## STAFF REPORT

### ISSUE

#### Development Request

The Applicant is requesting Site Development Plan approval for a 9,100 sq. ft. kennel located on a 10.78 acre Site. The proposed use being reviewed is “**Kennel**” under the heading of **Animal Care and Service** per § 1-19-5.310 of the Zoning Ordinance and is a permitted use subject to approval of a Special Exception by the Board of Appeals and Site Development Plan approval.

The Special Exception was approved by the BOA (B-14-17) on July 1, 2014 and had an expiration date of July 1, 2019. A one-time six month extension was granted from July 1, 2019 to January 1, 2020 to provide additional time for the site plan to be approved.

Under Ordinance Section 1-19-3.210 (B) Special Exceptions, the Board found that:

1. “The Applicant testified that the proposed use to be consistent with the purpose and intent of the Comprehensive Development Plan and of this Chapter as the proposed dog Kennel is similar in nature to and consistent with the surrounding agricultural uses, and their facility design will further promote and protect the existing agricultural and rural character of this part of Frederick County.
2. The Applicant testified the nature and intensity of the proposed dog Kennel use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located, and is consistent with the large scale agricultural uses that currently surround it.
3. The Applicant testified the operations in connection with the proposed special exception use shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location in the Agricultural zoning district. The Applicant testified the proposed dog Kennel is located at least 1/3 of a mile from residential uses, is surrounded on three sides by an active farming operation, and will produce a minimal amount of traffic. Dogs will be kept within the existing farm house or barn once renovated to limit potential for noise.
4. The Applicant testified parking areas will comply with the off street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety. The Applicant requested a reduction in parking requirements. The Board determined that this was not under their purview and would be addressed during site plan review and subject to approval by the Frederick County Planning Commission.
5. The Applicant testified the road system providing access to the proposed site is adequate to serve the site for the dog Kennel. The proposed dog Kennel has frontage on Stauffer Road with a Local roadway classification.”

Under Ordinance Section 1-19-8.338 Kennels, animal hospitals or veterinary clinics in the A and VC Districts, the Board found that:

- A) “The Applicant testified that the property, when finalized, will contain 9.75 acres total and will meet the 5 acre minimum lot area required by Ordinance Section 1-19-6.100.
- B) The Applicant testified that operations will be conducted within completely enclosed structures, and the proposed outdoor runs all meet the 150 foot setback requirement.
- C) The Applicant testified that the property will adhere to the 100 animal maximum allowed in the Agricultural Zoning district.
- D) The Applicant testified that the proposed signage will be 45 inches wide by 26 inches high and will be attached to a sign post that is five feet in height with a solar lamp on top adding approximately 10 inches in height.
- E) The Applicant testified that the property has frontage on Stauffer Road, a public roadway with a Local designation.

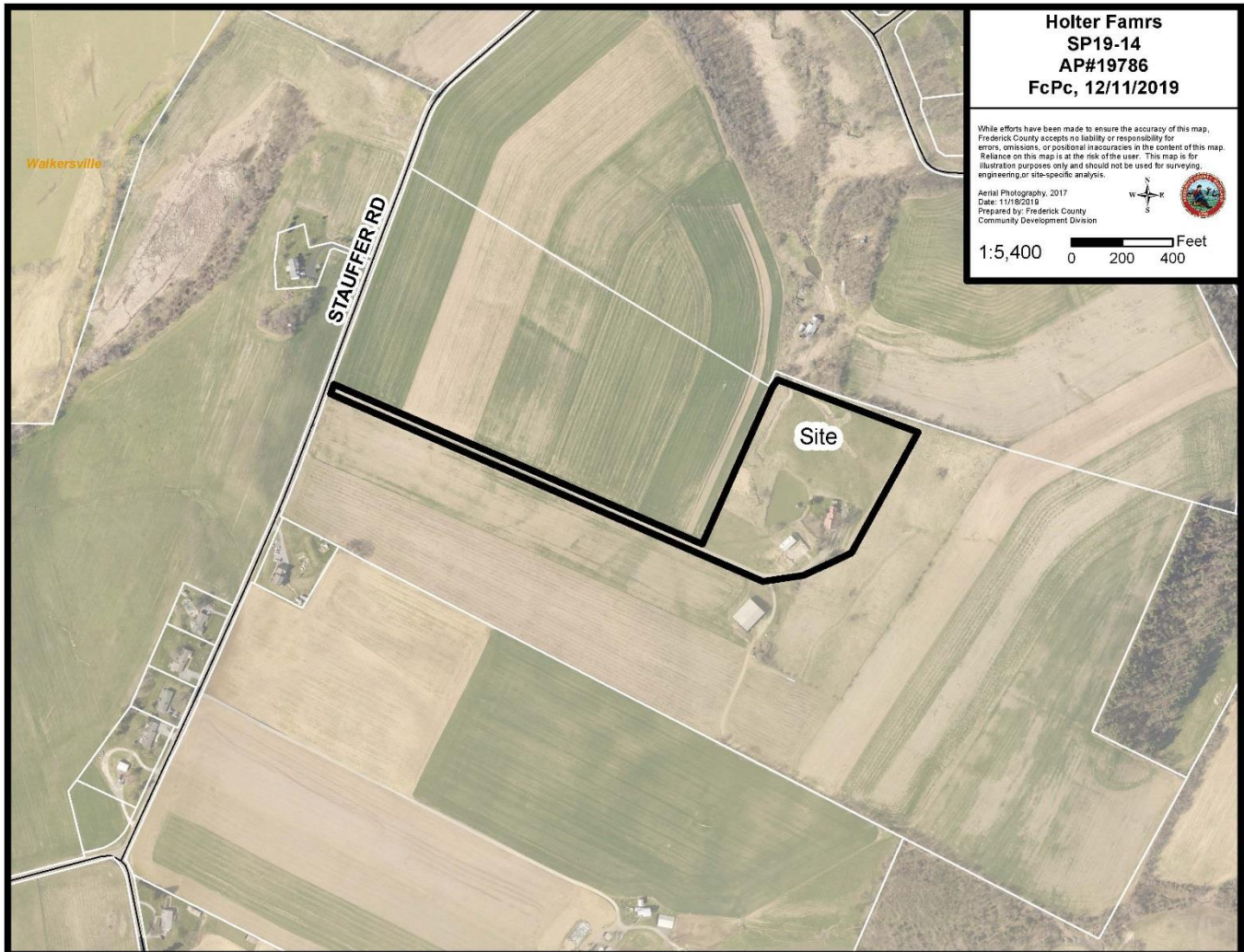
- F) The Applicant testified that an animal incinerator is not part of their proposed dog Kennel operation.”

## BACKGROUND

### Development History

The single-family dwelling at 9619 Stauffer Road was built in two phases – the north wing may have been built in the early 1800s and the south wing was speculated to be built between the 1980s or early 1990s. The historic name is the Creager House. The proposal is to construct a 9,100 sq. ft. 2-story kennel, which will sit at the northeastern portion of the Site. There will also be 60 covered outdoor kennels and 10,324 sq. ft. of outdoor dog runs. See Graphic #1 below.

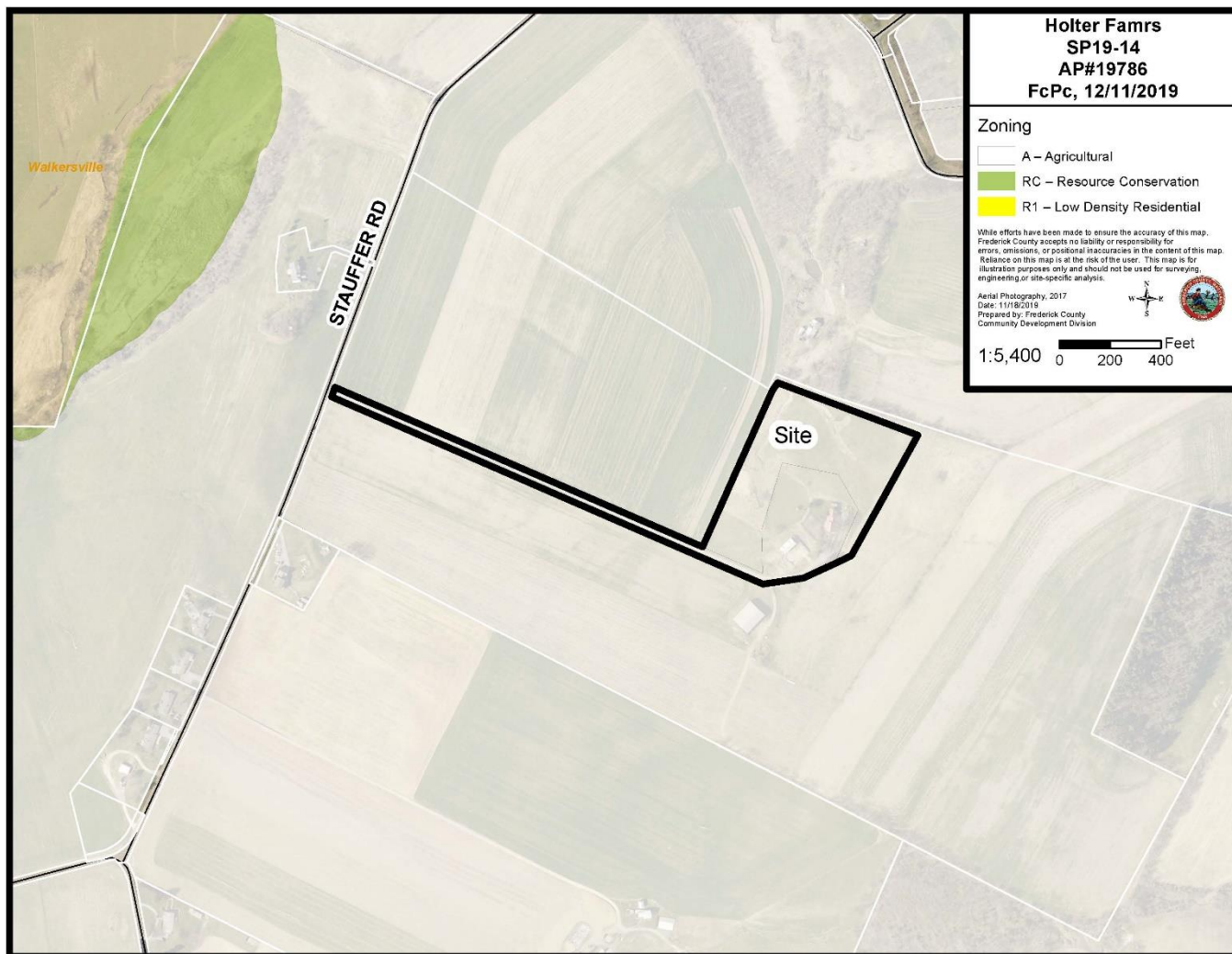
Graphic #1: Aerial



### Existing Site Characteristics

The Site is currently occupied by a single family dwelling, the metal covered shed, an outdoor dog run, and a single driveway access onto Stauffer Road. The Site is zoned A – Agricultural with a County Comprehensive Plan land use designation of Agricultural/Rural. The Site is abutting a single property, which is an agricultural use and agricultural zone. Nearby land uses also include agricultural zoned properties, with a mixture of agricultural and residential land uses. See Graphic #2 below.

Graphic #2: Zoning





## **ANALYSIS**

### **Detailed Analysis of Findings and Conclusions**

Site Development Plan Approval shall be granted based upon the criteria found in:

**Site Development §1-19-3.300.4 (A):** *Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

### **Findings/Conclusions**

1. **Dimensional Requirements/Bulk Standards §1-19-6.100 & 1-19-8.338 (B):** The setback requirements of an Animal care and services in the Agricultural zoning district are as follows: Front Yard – 40 ft., Side Yard – 50 ft., and Rear Yard – 50 ft. The minimum lot area is 5 acres and the required lot width is 300 ft. The proposed development meets all dimensional lot and building height requirements.
2. **Signage §1-19-6.320 & 1-19-8.338 (D):** One freestanding sign that is no more than 15 ft. in height and 25 sq. ft. are permitted for a Kennel in an Agricultural zoning district. The Applicant is proposing to relocate the current freestanding sign for this Site Development Plan. The location of the sign was acceptable in accordance with BOA AP# B-14-17 but had to be relocated due to sight distance conflicts. The location shown on the plan was acceptable to the Zoning Administrator.
3. **Landscaping §1-19-6.400:**
  - **Street Trees §1-19-6.400(A):** The code requires 1 street tree per 35 linear feet of road frontage, therefore requiring 1 street tree ( $40 / 35 = 1.14$ ) along Stauffer Road. Due to site distance constraints of the panhandle, the Applicant is requesting an alternate planting design. The additional tree is proposed along the driveway in the main portion of the Site. Staff generally does not support relocating required street trees so far from the street, but due to the limited space within the panhandle of the lot, Staff has no objection to the proposal.

**Modification:** A landscape modification request to relocate the required street tree along the driveway as shown on the Plan.

- **Land Use Buffering and Screening §1-19-6.400(B):** The Site is abutting another Agricultural zoning district and agricultural use. Therefore, the land use buffering and screening shall be determined by the Planning Commission. Currently, there are existing trees and brush throughout the Site. Most of the brush is concentrated west of the pond and along the stream bank. There are evergreens proposed along the northeastern portion of the Site for additional screening. The topography of the Site also helps with the land use buffering and screening.

**Modification:** A landscape modification request for the alternate planting shown on the plan to be adequate land use buffering and screening.

- **Parking Area Buffering and Screening §1-19-6.400(C):** The proposed parking areas are not directly facing Stauffer Road nor are they abutting residential uses or residential zoning districts. The proposed landscaping and the topography of the Site helps to provide minimal visual impact to surrounding uses.
- **Parking Area Landscaping §1-19-6.400(D):** The Applicant is required to provide 20%

canopy over the parking area, or 2,117 sq. ft. The Applicant is proposing 4,485 sq. ft. or 42% of tree canopy over the parking area.

- **Landscaping, Screening, or Buffering §1-19-6.400(E):** All landscape material must be maintained in a living condition. The proposed Site plan emphasizes native species and no invasive/exotic species are specified.

4. **Lighting §1-19-6.500:** There will be lighting around the Site proposed for this Site Development Plan approval. The Applicant is proposing three LED lamps, in which the fixtures are cut-off, directed downward, and do not exceed 0.50 footcandles at the property line. The height of the light poles are 14 ft. The hours of operation of the lamps are proposed to be 6:00 am to 10:00 pm.

**Transportation and Parking §1-19-3.300.4 (B):** *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

### **Findings/Conclusions**

1. **Access/Circulation:** The Site has direct access from Stauffer Road with an existing driveway that serves the existing house. The driveway will be widened due to the proposed development. With the limited space of the panhandle, the existing sign, fence, and crops currently obstruct the sight distance to the right and the crops obstruct sight distance to the left. The fence and sign will be removed or relocated and an easement will be required so that the adjacent property owner (who is the same owner on both sides of the driveway) can remove vegetation and/or maintain the crops at an appropriate height within the site triangles.

**Condition:** The sight distance easements depicted on sheet C1.03 must be recorded prior to site plan approval.

2. **Connectivity §1-19-6.220(F):** Although it appears that there are connections to neighboring properties located south and east of the Site via private drives, the Applicant does not have authorization to use those drives.
3. **Public Transit:** This Site is not directly served by Transit. However, the Walkersville Village Shopping Center stop serving #65 Route (Walkersville Connector) is approximately 0.87 miles from the driveway of the Site.
4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:** A Kennel is required to provide 1 space per 400 sq. ft. of floor area excluding kennels, plus 1 space per examination room, plus 1 space per employee. Therefore, this proposed development requires 23 spaces. The Applicant is proposing 23 parking spaces.

#### **Loading Spaces**

A commercial use over 5,000 sq. ft. requires 1 large or 2 small loading spaces. The Applicant is proposing 2 small loading spaces for the development.

1. **Pedestrian Circulation and Safety §1-19-6.220 (G):** Due to the rural nature of the Site and surrounding land uses, a sidewalk is only provided for pedestrian circulation for the parking area closest to Kennel.

2. **Bicycle Parking §1-19-6.220 (H):** The code requires 1 bicycle rack for each 20 auto spaces for a commercial use; therefore, 1 bicycle rack is required. The Applicant is proposing 1 bicycle rack and has provided a bicycle parking location that appears to be sufficient and in accordance with the Zoning Ordinance.

**Public Utilities §1-19-3.300.4 (C):** *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

### **Findings/Conclusions**

**Private Well and Septic:** The Site is currently served by an existing well and septic system. The proposed development will be served by on-site well and septic facilities approved by the Health Department, who has conditionally approved the proposed Plan.

**Natural features §1-19-3.300.4 (D):** *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

### **Findings/Conclusions**

1. **Topography:** When traveling into the Site, the driveway initially drops in elevation before rising approximately 30 ft. to the crest of a small hill. From the crest of the hill, the elevation drops back down approximately 14 ft into the main portion of the Site. This makes the Site relatively hidden when viewed at the entrance of the driveway due to the rolling hillside. Stauffer Road is also difficult to see from the main areas within the property. Within the Site, the main portion slopes from the eastern and southern property boundaries to the northwest, toward the pond and stream.
2. **Vegetation:** There are currently trees and brush located around the Site, found around the house and the pond. There are also trees and brush located along the west and northern boundary lines.
3. **Sensitive Resources:** There are slopes greater than 25% found on the Site that are mostly on the west side of the pond. The proposed Kennel will not be developed near the slopes. There are no habitats of threatened or endangered species on this Site.
4. **Natural Hazards:** There are wetlands and wet soils running from the northwestern corner toward the south portion of the Site, west of the existing house.

**Common Areas §1-19-3.300.4 (E):** *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

### **Findings/Conclusions**

1. **Proposed Common Area:** There are no required public common areas associated with this development.

**2. Ownership:** The Site is privately owned.

#### Other Applicable Regulations

**Stormwater Management – Chapter 1-15.2:** The Stormwater Management Plan and other engineering issues will be reviewed with future plans in accordance with Maryland Stormwater Management Act of 2007.

#### **APFO – Chapter 1-20:**

**Road Improvements:** The project generates less than 50 new trips during the peak hour of the adjacent street and there are no road escrow accounts in the area, and therefore is exempt from APFO mitigation for roads.

**Water and Sewer Improvements:** Site Water and Sewer Classification is No Planned Service and operates with onsite private well and septic, and is therefore exempt from APFO Review.

**Schools:** This development is not a residential use and is therefore exempt from schools APFO testing.

**Forest Resource – Chapter 1-21:** The Applicant has submitted a Combined Preliminary/Final Forest Conservation Plan. The property contains no forest. The Applicant is proposing to plant (afforest) 2.16 acres of forest on site and place the area under a FRO easement.

The site contains three (3) specimen trees (trees 30" or greater in diameter). The Applicant is proposing to remove one (1) specimen tree, a 60" Silver Maple in poor condition. The remaining two (2) specimen trees will be retained and protected. Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, and the FCPC finds that the requirements for granting a modification have been met. Hazardous trees (which must exhibit structural defects and be located near a "target") may be removed without an FCPC modification. The 60" Silver Maple exhibits structural defects and significant health issues that make it predisposed to failure, and could fall on the historic house. Its removal is approved by staff and FCPC approval for its removal is not required.

**Condition:** FRO mitigation must be provided prior to applying for grading permits or building permits, whichever is applied for first.

**Historic Preservation – Chapter 1-23:** The Creager House (F-8-44), listed on the Maryland Historical Trust, is located on the property. No adverse impacts to the house are anticipated as a result of this Site Development Plan approval.

<b>Other Agency or Ordinance Requirements</b>	<b>Comment</b>
<b>Public Works Department</b>	Conditionally Approved
<b>Development Review Planning:</b>	Conditionally Approved
<b>Div. of Utilities and Solid Waste Mgmt. (DUSWM):</b>	N/A



<b><i>Other Agency or Ordinance Requirements</i></b>	<b><i>Comment</i></b>
<b><i>Health Department</i></b>	Conditionally Approved
<b><i>Office of Life Safety</i></b>	Approved
<b><i>Development Review Transportation Engineering</i></b>	Approved
<b><i>Forest Conservation (FRO)</i></b>	Approved
<b><i>Adequate Public Facilities (APFO)</i></b>	Approved
<b><i>Street Name Review</i></b>	Approved

## **RECOMMENDATION**

Staff has no objection to conditional approval of the Holter Farm Site Development Plan. If the Planning Commission conditionally approves the Site Development Plan, the Site plan is valid for a period of three (3) years from the date of Planning Commission approval (December 11, 2022).

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

### **Planning Commission approval of the following modification request from the Applicant:**

1. A landscape modification to relocate the required street tree along the driveway as shown on the Plan.
2. A landscape modification request to allow the alternate planting shown on the plan to be adequate land use buffering and screening.

### **Staff-proposed conditions of approval:**

1. The Site Development Plan approval is subject to the Board of Appeals findings and decisions for B-14-17 adopted July 1, 2014.
2. The sight distance easements depicted on sheet C1.03 must be recorded prior to site plan approval.
3. FRO mitigation must be provided prior to applying for grading permits or building permits, whichever is applied for first.
4. The Applicant shall comply with all Staff and agency comments through the completion of the plan.

## **PLANNING COMMISSION ACTION**

### **MOTION TO APPROVE**

I move that the Planning Commission **APPROVE** Site Development Plan SP-19-14, AP 19786 (APFO 19787 & FRO 19728) **with conditions and modifications** as listed in the staff report for the proposed Site plan, based on the findings and conclusions of the staff.

Exhibit #1 - Site Plan Renderings



**Macris, Hendricks and Glascock, P.A.**  
Engineers • Planners • Surveyors • Landscape Architects

9220 Wightman Road, Suite 120  
Montgomery Village, Maryland  
20886-1279

Phone 301.670.0840

Fax 301.948.0693

[www.mhgpa.com](http://www.mhgpa.com)



September 25, 2019

Ms. Ashley Moore  
Division of Planning and Permitting  
30 North Market Street  
Frederick, MD 21701

RE: A Dog's Haven, Holter Farm, Lot 2  
MHG No. 2013.233.14

Dear Ms. Moore,

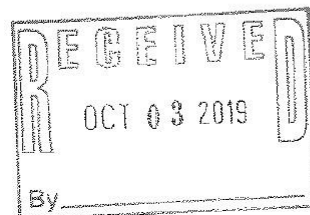
On behalf of the property owner, Kelkimric Properties, LLC, in accordance with the Site Plan requirements for the proposed use of the property as a kennel, we hereby submit a request for modification from the following requirements:

1. Section 1-19-6.400 (A) "Street Trees shall be provided per 35 feet of roadway frontage." A modification is requested to plant the required street tree along the driveway as shown on the approved Site Plan.
2. Section 1-19-6.400 (B) "Land use Buffering and Screening between land uses." All adjacent land uses are agricultural. The closest residences are approximately 2,000 feet away in any direction. Along the north property line is an existing hedge row in which one specimen tree resides. Evergreen trees are added here. Otherwise the geography of the land and existing and proposed parking lot landscaping will adequately obscure the kennel building from the road. A modification is requested pursuant to Section 1-19-6.400 (B) (2) for the alternative planting as shown on the Site Plan as adequate for buffering and screening for a kennel on this property.

Thank you for your consideration of this modification request. Please contact me if you have any questions or need additional information.

A handwritten signature in black ink, appearing to read "David B. Post", is written over a light blue horizontal line.

David B. Post  
Vice President of Landscape Architecture and Planning



**IN MATTER OF:**

**Gary Havens of  
KELKIMRIC Properties, LLC  
represented by Linowes & Blocher**

**Before the Board of Appeals  
for Frederick County MD  
Case No. B-14-17**

\* \* \* \* \*

**FINDINGS AND DECISIONS**

This matter comes before the Board on the application of Gary Havens of KELKIMRIC Properties, LLC as represented by Bruce N. Dean and Lisa Lawler Graditor of Linowes & Blocher, LLP (hereinafter "Applicant") for a Special Exception as provided for in the Frederick County Zoning Ordinance (hereinafter "Ordinance"). The property (hereinafter "Property") for which the special exception is requested is located at 9619 Stauffer Road, Walkersville, MD 21793 and is identified by the State Department of Assessments and Taxation as Tax ID #26-509041 & 26-498333, Tax Map 58, Parcels 259, Lot 2, and Parcel 65. The Property is currently zoned Agricultural (AG), and when complete will consist of 9.75 acres. The Applicant seeks a Special Exception under Ordinance Sections 1-19-3.210 and 1-19-8.338 to establish a dog Kennel in the Agricultural zoning district.

Under Ordinance Section 1-19-3.210(A) the Board finds that the Applicant has demonstrated a financial, contractual, or proprietary interest in the Property.

Under Ordinance Section 1-19-3.210(B) the Board finds:

1. The Applicant testified the proposed use to be consistent with the purpose and intent of the Comprehensive Development Plan and of this Chapter as the proposed dog Kennel is similar in nature to and consistent with the surrounding agricultural uses, and their facility design will further promote and protect the existing agricultural and rural character of this part of Frederick County.
2. The Applicant testified the nature and intensity of the proposed dog Kennel use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located, and is consistent with the large scale agricultural uses that currently surround it..
3. The Applicant testified the operations in connection with the proposed special exception use shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location in the Agricultural zoning district. The Applicant testified the proposed dog Kennel is located at least 1/3 of a mile from residential uses, is surrounded on three sides by an active farming operation, and will produce a minimal amount of traffic. Dogs will be kept within the existing farm house or barn once renovated to limit potential for noise.

4. The Applicant testified parking areas will comply with the off street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety. The Applicant requested a reduction in parking requirements. The Board determined that this was not under their purview and would be addressed during site plan review and subject to approval by the Frederick County Planning Commission.

5. The Applicant testified the road system providing access to the proposed site is adequate to serve the site for the dog Kennel. The proposed dog Kennel has frontage on Stauffer Road with a Local roadway classification.

Under Ordinance Section 1-19-8.338 *Kennels, animal hospitals or veterinary clinics in the A and VC Districts*, the Board finds:

(A) The Applicant testified that the property, when finalized, will contain 9.75 acres total and will meet the 5 acre minimum lot area required by Ordinance Section 1-19-6.100.

(B) The Applicant testified that operations will be conducted within completely enclosed structures, and the proposed outdoor runs all meet the 150 foot setback requirement.

(C) The Applicant testified that the property will adhere to the 100 animal maximum allowed in the Agricultural Zoning district.

(D) The Applicant testified that the proposed signage will be 45 inches wide by 26 inches high and will be attached to a sign post that is five feet in height with a solar lamp on top adding approximately 10 inches in height.

(E) The Applicant testified that the property has frontage on Stauffer Road, a public roadway with a Local designation.

(F) The Applicant testified that an animal incinerator is not part of their proposed dog Kennel operation.

The Applicants submitted Applicant's Exhibit #1, being photographic examples of Dog Cottages.

Opposition to the proposed Kennel daycare submitted Opposition Exhibit #1, information on existing Kennels within Frederick County and Kennel construction, and Opposition Exhibit #2, Letter from Zimmerman's.

The Board heard from Opposition speakers with concerns about noise, traffic and care of animals.


The Applicant is bound by all exhibits and testimony.

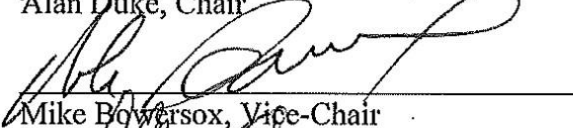


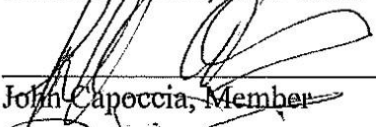
The Board held a public hearing on the requested Special Exception on May 22, 2014.

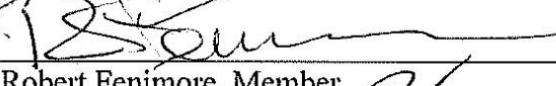
For all of the foregoing reasons, on a motion by Mr. Bowersox and seconded by Mr. Capoccia, the Board of Appeals finds that the Applicant meets the criteria of Ordinance Section 1-19-3.210 and Section 1-19-8.338 and therefore voted (5-0) to grant the Applicant's request for Special Exception to establish a dog Kennel on condition that the Applicant takes title to the remaining 5 acres necessary to meet the 9.75 acre total proposed in their testimony.

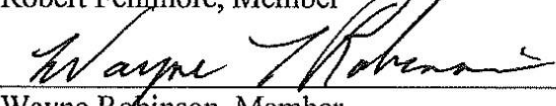
Adopted by the Board of Appeals on the 1<sup>ST</sup> day of July, 2014.

  
Alan Duke, Chair

  
Mike Bowersox, Vice-Chair

  
John Capoccia, Member

  
Robert Fenimore, Member

  
Wayne Robinson, Member

Ordinance Section 1-19-3.210 (I)

A decision of the Board of Appeals granting a special exception will be void 5 years from date of approval by the Board of Appeals unless the use is established, a building permit issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.